



HOUSE JOINT RESOLUTION No. 4

DIGEST OF INTRODUCED RESOLUTION

Citations Affected: Article 7 of the Constitution of the State of Indiana.

Synopsis: Designation of justice after recusal. Provides that if a justice of the Indiana supreme court is unavailable to hear a case due to recusal or vacancy in the office, a judge of the court of appeals shall be selected by a random method to act as a substitute justice. Requires the Indiana supreme court to adopt rules to: (1) prescribe the random method of choosing a substitute justice; (2) provide that the name of court of appeals judges who have certain conflicts of interest may not be included in the pool of judges from which the substitute justice is selected; and (3) provide that the substitute justice has the same power, duties, and rights with respect to the case as the justice whom the substitute justice is replacing would have had hearing the case.

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

DeLaney

January 9, 2014, read first time and referred to Committee on Judiciary.



PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE JOINT RESOLUTION No. 4

A JOINT RESOLUTION proposing an amendment to Article 7 of the Indiana Constitution concerning courts and court officers.

Be it resolved by the General Assembly of the State of Indiana:

- 1 SECTION 1. The following amendment to the Constitution of the
- 2 State of Indiana is proposed and agreed to by this, the One Hundred
- 3 Eighteenth General Assembly of the State of Indiana, and is referred to
- 4 the next General Assembly for reconsideration and agreement.
- 5 SECTION 2. ARTICLE 7, SECTION 3 OF THE CONSTITUTION
- 6 OF THE STATE OF INDIANA IS AMENDED TO READ AS
- 7 FOLLOWS: Section 3. ~~Chief Justice.~~ (a) The Chief Justice of the State
- 8 shall be selected by the judicial nominating commission from the
- 9 members of the Supreme Court. ~~and he shall retain~~ **The individual**
- 10 **selected as Chief Justice may hold** that office for a period of five
- 11 years, subject to reappointment in the same manner, except that a
- 12 member of the Court may resign the office of Chief Justice without
- 13 resigning from the Court.



(b) During:

(1) a vacancy in the office of Chief Justice caused by absence, illness, incapacity or resignation; **or**

(2) **the time that the Chief Justice is recused from hearing a case;**

all powers and duties of that office shall devolve upon the member of the Supreme Court who is senior in length of service and if equal in length of service the determination shall be by lot until such time as the cause of the vacancy is terminated, ~~or~~ the vacancy is filled, **or the case on which the Chief Justice is recused has been decided.**

(c) The Chief Justice ~~of the State~~ shall appoint such persons as the General Assembly by law may provide for the administration of ~~his~~ **the Chief Justice's** office. The Chief Justice shall have prepared and submit to the General Assembly regular reports on the condition of the courts and such other reports as may be requested.

SECTION 3. ARTICLE 7 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED BY ADDING A NEW SECTION TO READ AS FOLLOWS: **Section 10.5. (a) If a justice of the Supreme Court is unavailable to hear a case, either because of recusal or vacancy in the office, a judge of the Court of Appeals shall be selected by a random method to act as a substitute justice.**

(b) If a substitute justice selected as provided in this section is later unavailable to hear the case for which the substitute justice has been selected, either because of recusal or vacancy, another judge of the Court of Appeals shall be selected as a substitute justice as provided in this section.

(c) The Supreme Court shall adopt rules to do the following:

(1) Prescribe the random method of choosing a substitute justice.

(2) Provide that the name of the following may not be included in the pool from which a substitute justice is randomly selected:

(A) A judge of the Court of Appeals who has participated in the case as a judge, attorney, or party.

(B) A judge of the Court of Appeals who has removed the judge's own name from the pool because the judge believes the judge has a conflict of interest.

(C) A judge of the Court of Appeals who has applied to fill a vacancy on the Supreme Court.

(3) Provide that the judge of the Court of Appeals sitting as the substitute justice has the same power, duties, and rights with respect to the case as the justice whom the substitute



1 justice is replacing would have had hearing the case.
2 (d) The Supreme Court may adopt other rules relating to the
3 selection, power, duties, and rights of a substitute justice not
4 inconsistent with this section that the Supreme Court considers
5 appropriate.

